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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARYBefore the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Reexamination of the Policy
Statement on Comparative
Broadcast Hearings

GC Docket No. 92-52

COMMENTS OF NATIONAL PUBLIC RADIO
AND AMERICA'S PUBLIC TELEVISION STATIONS

National Public Radio (NPR) and America's Public Television Stations (APTS) offer the following Comments in response to the Further Notice of Proposed Rulemaking (FNPRM) in the above identified docket. NPR is a nonprofit, noncommercial organization which provides programming and interconnection services to 482 full-service public radio stations and which represents them in developing and maintaining a viable and diverse public radio service for the American public. APTS is a nonprofit membership association whose members comprise virtually all of the nation's 345 public television stations. Among other things, it represents its membership on a national level by presenting stations' views to the Commission, Congress, the Executive Branch and to other federal agencies and policy makers.

The Commission proposes to require successful applicants in comparative proceedings to operate their stations for three years before they would be eligible to transfer them. NPR and APTS agree with the public policy objectives of a service continuity

requirement -- stability of ownership in broadcasting -- however, the unique governance arrangements in public broadcasting complicate the application of such a requirement in the noncommercial context. Moreover, since public radio and television licenses are infrequently awarded by comparative hearings and are transferred thereafter even less frequently, there appears to be little need for such a requirement for noncommercial stations.

NPR and APTS urge the Commission to exclude noncommercial stations from any rule change at this time. However, should the Commission apply the requirement to noncommercial stations, it is imperative that the Commission move forward with Docket 89-77, a pending proceeding concerning transfer of control issues related to noncommercial stations.

THE RECORD DOES NOT SUPPORT A SERVICE CONTINUITY
REQUIREMENT FOR NONCOMMERCIAL STATIONS

The FNPRM proposes changes to sections 73.3597 and 73.1620(g) of the Commission's rules. These sections make no distinction between commercial and noncommercial, educational (NCE) radio and television stations. Other sections of the Commission's rules appropriately recognize that the purpose and organization of noncommercial stations differ from their commercial counterparts.¹

¹See, for example, section 73.3615 ("Ownership Reports") paragraphs (a) and (d) which contain certain reporting requirements for commercial AM, FM and TV stations and other requirements for noncommercial, educational stations.

The proposed rule changes are based upon evidence in the record of speculation among mutually exclusive applicants for commercial broadcast licenses. There is no indication in the FNPRM of evidence before the Commission of any "trafficking" of noncommercial educational stations, much less evidence of a substantial problem in this area requiring corrective action. In fact, the record in this proceeding makes no reference to noncommercial station transfers or assignments, other than in comments filed earlier in this docket by public broadcasters asserting that transfers are infrequent. Nor is there any concern expressed about the service continuity being provided by NCE station licensees. If the Commission decides to adopt the changes proposed in the FNPRM, NPR and APTS urge it to defer application of such a requirement for NCE stations.

The Commission has long acknowledged that "the noncommercial broadcast service, by definition, differs markedly from the commercial service." Educational Broadcast and Renewal Applications, 42 FCC 2d 690, 694 (1973); see also Program Policies and Reporting Requirements Related to Public Broadcasting Licensees, 98 FCC 746, 751 (1984). If the Commission determines that a service continuity requirement is appropriate for commercial AM, FM and TV stations, it should amend Section 73.3597(a)(1) for successful **commercial** applicants only.

The Commission has pending before it a Notice of Inquiry in which it has proposed a set of guidelines for determining when transfers of control of various types of licensed non-stock

entities occur, and what procedure must be followed when different types of organizational and board changes occur. See "Transfers of Control of Certain Non-stock Entities," MM Docket No. 89-77.² Until the Commission resolves the general issue of when a transfer of control of ownership occurs for a noncommercial licensee, the Commission should not adopt a service continuity requirement for NCE licensees. To do so would create needless confusion and could unnecessarily burden the Commission and licensees alike.

CONCLUSION

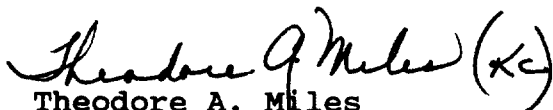
NPR and APTS support stability of ownership in broadcasting and the general principle of consistent service to the public. We believe that these principles are currently well-served by public broadcast stations and that there is no need to modify the Commission's rules in this regard with respect to noncommercial, educational broadcast stations.

Before applying a service continuity requirement on public stations, the Commission must first resolve pending questions regarding how to determine when a transfer of control occurs on the governing boards of non-stock entities, such as public broadcast stations. Until such a resolution, NPR and APTS believe that any modification of Commission rules with respect to service continuity requirements for noncommercial, educational

²See, "Comments of National Association of Association of Public Television Stations, National Federation of Community Broadcasters, and National Public Radio," ("Public Broadcasters' Comments") in MM Docket No. 89-77, (filed July 13, 1989).

stations would be premature and unworkable.


Respectfully submitted,

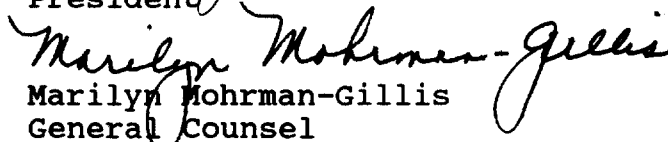
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